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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-082

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **2. Form, Style and Placement in Administrative Code**

a. The department should remove or clarify the circular reference regarding “headquarters” and “headquarters functions” in s. Comm 129.02 (3). Generally, does the department intend a literal interpretation of the phrase “the majority of” in the definition of “headquarters”? How will the department measure the extent of financial, personnel, legal, or planning functions? What is the department’s intent with regard to defining headquarters on a divisional, regional, national, or global basis? Is it the department’s intent for more than one location of a business to qualify as a headquarters?

b. In s. Comm 129.10 (1), the department should clarify the meanings of phrases regarding business activities that are eligible for qualification as a qualified new business venture. For example, what qualifies as “proprietary technology” for purposes of s. Comm 129.10 (1) (c) 1. c.? What is “pre-commercialization activity” under s. Comm 129.10 (1) (c) 2.?

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

The rule analysis cites s. 560.208, Stats., as created by 2009 Wisconsin Act 28 (to be renumbered s. 560.2085, Stats.). While the phrase “qualified new business venture” appears in this section, it relates to the term as applied to s. 71.05 (24), Stats. It appears this reference to qualified new business venture is distinct from the phrase as applied in subch. II of ch. Comm 129, and the statutory citations related to that subchapter. The department should clarify the

scope of the phrase “qualified new business venture” as used in the rule, or remove references to s. 560.2085, Stats., if it is determined to be inapplicable.

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Is it the department’s intent to notify the Department of Revenue (DOR) in all instances described in s. Comm 129.12 (6) (a) 1. and 2., or only instances when the department chooses to revoke tax credits? The department should clarify s. Comm 129.12 (6) (a) (intro.) regarding notification to DOR.

b. In s. Comm 129.13, the department uses the word “aggregate” to describe limits on the program as well as individual companies and investors. The section would be improved by reorganization or additional language that clarifies the distinction between statewide limits and per-company or per-investor limits.